

## ADDITIONAL JUDGE IN THIRD JUDICIAL CIRCUIT.

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JULY 8, 1898.—Referred to the House Calendar and ordered to be printed.

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Mr. PARKER, from the Committee on the Judiciary, submitted the following

### REPORT.

[To accompany H. R. 7094.]

The Committee on the Judiciary, to whom was referred the bill (H. R. 7094) entitled "A bill providing an additional circuit judge in the third judicial circuit," having considered the same, do report the same favorably, and recommend that the same do pass without amendment.

This is a bill providing for an additional judge in the third circuit. The circuit includes Pennsylvania, New Jersey, and Delaware, with a population of 6,871,440 in 1890. It has only 2 circuit judges and 4 district judges, or 6 in all, or an average for each judge of 1,145,240. (See Exhibit No. 1, hereto annexed.) This is a larger population for each judge than in any circuit of the United States. It is only approached by the sixth circuit (Ohio, Michigan, Kentucky, and Tennessee), in which the glut of civil cases is likewise very great (see same exhibit), and in which there are likewise only 2 circuit judges and 7 district judges.

In this last circuit an additional circuit judge has been already recommended by this committee.

Extra judicial force is needed in many of the circuits. None of them can show such a condition of affairs as in the third; no other circuit has so few judges in proportion to the population; in no other circuit has the work been so far beyond the power of the judges to perform.

It is especially shown in the number of civil cases pending in which the United States are not a party. In 1887 the number was 1,926; in 1897 it was 2,852.

This increase was largely in the State of New Jersey, where the arrears in 1897 were 1,668. That State in 1890 had a population of 1,444,903, and constitutes a single district. The district judge has little aid in circuit business, and is called away to appeals. The circuit judges live in Pennsylvania and are fully occupied there.

By a petition of the attorney-general and prominent lawyers of the district of New Jersey it appears that the last district judge died of overwork, and that aid is imperatively needed.

There is much reason generally for a third circuit judge. We append Mr. Justice Harlan's remarks on that subject as an appendix, with two

exhibits, tabulating certain statistics as to the various circuits and districts.

A new circuit judge in this (third) circuit is imperatively demanded, first, to give a judicial force more nearly in proportion to the population; second, to take care of the large civil list at the circuit; third, to enable the circuit court of appeals to be held without taking away the district judges from their work; fourth, to relieve the district judge in some degree; fifth, to enable appeals from circuit cases decided by one circuit judge to be determined by the other judges of the court of appeals, instead of leaving such appeals to a court a majority of whom is drawn from the district courts.

The committee recommend the passage of the bill.

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#### APPENDIX.

Mr. Justice Harlan, in his statement to the committee as to the sixth circuit, says: "I am strongly of the opinion that the circuit sadly needs an additional circuit judge, partly because under the present system they call in district judges on appeal and complications arise.

"With only two circuit judges, if one sits in circuit he can not sit on appeal, and the other judge and two district judges sit, and the appeal may be determined entirely by the district judges. I think it is most important for the country to give the court of appeals all the dignity possible, so that it should always have two circuit judges, who could keep track of business and preserve the continuity of decision. \* \* \* The fact is that the best system is to have enough circuit judges so as to make a permanent court of appeals. The bill does not go so far, but it would not err if it gave three judges in each circuit, in which case two would practically sit with the court of appeals and push things through. Many cases now end in that court unless we order them up to the Supreme Court."

No. 1.—Number of judges, population, and suits in the various circuits of the United States, as taken from reports of the Department of Justice, 1897, and Census.

Circuits .....	1.	2.	3.	4.	5.	6.	7.	8.	9.
Districts .....	Maine .....	Vermont.....	New Jersey....	North Carolina, eastern.	Georgia, north- ern.	Ohio, northern..	Indiana.....	Minnesota.....	California,north- ern.
Do .....	New Hampshire	Connecticut ....	Pennsylvania, eastern.	North Carolina, western.	Georgia, south- ern.	Ohio, southern..	Illinois, north- ern.	Iowa, northern..	California,south- ern.
Do .....	Massachusetts..	New York, northern.	Pennsylvania, western.	South Carolina..	Florida, north- ern.	Michigan, east- ern.	Illinois, south- ern.	Iowa,southern..	Oregon.
Do .....	Rhode Island ...	New York,east- ern.	Delaware.....	Maryland.....	Florida, south- ern.	Michigan, west- ern.	Wisconsin,east- ern.	Missouri, east- ern.	Nevada.
Do .....		New York,south- ern.		Virginia, east- ern.	Alabama,north- ern and mid- dle.	Kentucky .....	Wisconsin,west- ern.	Missouri, west- ern.	Washington.
Do .....				Virginia, west- ern.	Alabama, south- ern.	Tennessee, east- ern and mid- dle.		Arkansas, east- ern.	Idaho.
Do .....				West Virginia..	Mississippi, northern and southern.	Tennessee,west- ern.		Arkansas, west- ern.	Montana.
Do .....					Louisiana, east- ern.			Nebraska.....	Alaska.
Do .....					Louisiana, west- ern.			Colorado.....	Arizona.
Do .....					Texas, northern.			Kansas.....	
Do .....					Texas, eastern..			Wyoming.....	
Do .....					Texas, western..			North Dakota ..	
Do .....								South Dakota...	
Do .....								Utah.....	
Do .....								New Mexico....	
Do .....								Oklahoma.....	
Do .....								Indian Terri- tory, northern.	
Do .....								Indian Terri- tory, central.	
Do .....								Indian Terri- tory, southern.	
Circuit judges .....	2	3	2	2	2	2	3	3	3
District judges .....	4	5	4	7	12	7	5	17	3
Total judges .....	6	8	6	9	14	9	8	20	11
Population:									
1890 .....	3,622,065	7,076,533	6,871,440	6,230,260	8,385,502	9,392,358	7,709,635	10,914,853	2,225,264
For each judge.....	603,677	884,569	1,145,240	692,251	598,964	1,043,595	963,704	545,742	202,297
Civil suits begun 1897, United States not party.....	435	1,856	647	380	1,061	1,143	778	2,681	618
Civil suits pending, United States not party .....	1,454	23,042	2,852	1,337	2,095	7,108	2,365	4,707	1,498
Criminal prosecutions pending.....	86	352	144	1,761	4,179	634	452	2,376	214
Civil suits pending, United States party.	40	5,856	304	182	342	194	62	353	256
Total cases pending.....	1,580	29,250	3,300	3,280	6,616	7,936	2,879	5,436	1,968
Cases pending per judge.....	263	3,656	550	364	473	881	359	271	179
Appeals pending.....	33	117	11	18	43	65	77	135	48
Appeals disposed of, 1897.....	45	112	58	56	94	90	76	133	65

See Report of Attorney-General, 1897 (p. 1 and pp. 16 to 21, 28 and 29); also, Report of Register of the Department of Justice, same year.

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